

1 BILL LOCKYER
Attorney General of the State of California
2 ROBERT R. ANDERSON
Chief Assistant Attorney General
3 FRANCES T. GRUNDER
Senior Assistant Attorney General
4 DAVID A. CARRASCO
Deputy Attorney General
5 BARBARA A. MORRIS (SBN 137680)
Deputy Attorney General
6 1300 I Street, Suite 125
P.O. Box 944255
7 Sacramento, CA 94244-2550
Telephone: (916) 322-3870
8 Fax: (916) 324-5205

9 Attorneys for Defendants Terhune,
Pliler, Rosario, Chastain, Stiles, Martel,
10 Kimbrell, Scarsella, Holmes, Andrade, Mini,
Lynch, Advincula, Dunlap, Hoffman, Jaffe,
11 Kelly, Shoemaker, Clavere, Massey,
Baughman and Johnson
12 48149280-SA2003104637

13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE EASTERN DISTRICT OF CALIFORNIA
16 SACRAMENTO DIVISION

17 **EVERETT L. McCOY,**

18 Plaintiff,

19 v.

20 **CAL A. TERHUNE, et al.,**

21 Defendants.

CASE NO. CIV S-01-1218 WBS GGH P

**DEFENDANTS' REQUEST FOR
EXTENSION OF TIME TO FILE AND
SERVE MOTION FOR SUMMARY
JUDGMENT; [PROPOSED] ORDER**

22
23 Defendants Terhune, Pliler, Rosario, Chastain, Stiles, Martel, Kimbrell, Scarsella,
24 Holmes, Andrade, Mini, Lynch, Advincula, Dunlap, Hoffman, Jaffe, Kelly, Shoemaker, Clavere,
25 Massey, Baughman, and Johnson respectfully move the Court for an order granting a thirty-one
26 day extension of time to file and serve Plaintiff with a motion for summary judgment.

27 This application is made on the grounds that the case was recently assigned to Deputy
28 Attorney General Barbara A. Morris, there are twenty-two Defendants, and Plaintiff asserts

FILED

JUN 24 2005

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY

1 numerous incidents throughout an approximately seven-month period that he contends constitute
2 violations of his First, Fifth, Eighth and/or Fourteenth Amendment rights, including allegations
3 of interference with medical care, arbitrary confinement in administrative segregation, and due
4 process and equal protection violations. New counsel must interview a number of the
5 Defendants and review numerous documents before preparing the motion for summary
6 judgment.

7 This extension is not sought for purpose of delay, and no previous extensions have
8 been sought by Defendants for bringing a motion for summary judgment. Plaintiff will not be
9 prejudiced by this short delay.

10 Dated: June 8, 2005

11 Respectfully submitted,

12 BILL LOCKYER
13 Attorney General of the State of California

14 ROBERT R. ANDERSON
15 Chief Assistant Attorney General

16 FRANCES T. GRUNDER
17 Senior Assistant Attorney General

18 DAVID A. CARRASCO
19 Deputy Attorney General

20 /s/ *Barbara A. Morris*

21 BARBARA A. MORRIS
22 Deputy Attorney General
23 Attorneys for Defendants
24
25
26

27 BAM:js
28 30011028.wpd

**DECLARATION OF BARBARA A. MORRIS IN SUPPORT OF
DEFENDANTS' EX PARTE REQUEST FOR EXTENSION OF TIME
TO FILE A MOTION FOR SUMMARY JUDGMENT**

I, Barbara A. Morris, declare:

1. I am an attorney licensed to practice in the State of California.

2. On June 1, 2005, I was assigned to represent Defendants in this matter. Plaintiff has named twenty-two individuals who were employed by the California Department of Corrections at the time of the incidents about which plaintiff complains.

3. The Court's scheduling order filed February 9, 2005, sets July 8, 2005, as the cut-off date for bringing any pretrial motions. I will need additional time to review the facts of the case, interview Defendants, review various documents as well as the transcript of Plaintiff's deposition, which was taken by Defendants' previous counsel, and prepare the motion for summary judgment.

4. Plaintiff is an inmate in the custody of the California Department of Corrections. He is currently housed at Salinas Valley State Prison. He alleges that Defendants conspired to punish and/or retaliate against him because of an altercation he had with one or more deputies while he was in the custody of the Sacramento County Sheriffs Office. He alleges numerous incidents during a seven-month period that he contends amounted to violations of various rights protected by the constitution.

5. Because Plaintiff is an inmate who is representing himself, a stipulation extending time cannot reasonably be obtained from him. This is Defendants' first request for an extension of time to prepare a motion for summary judgment. Granting Defendants' request for an extension of time will not prejudice Plaintiff in any manner.

I declare under penalty of perjury that the foregoing is true and correct, and that I am competent to testify and would so testify if called as a witness.

Executed this 8th day of June, 2005, at Sacramento, California.

/s/ Barbara A. Morris
BARBARA A. MORRIS

BAM:js
30011028.wpd

ORDER

IT IS HEREBY ORDERED THAT: good cause having been shown, Defendants shall have until Monday, August 8, 2005, to serve and file their motion for summary judgment.

DATED:

June 22, 2005


GREGORY C. HOLLOWES

UNITED STATES MAGISTRATE JUDGE